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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,101	11/21/2003	James W. Skinner	PSG0035-02	1948
832	7590	09/29/2004	EXAMINER	
BAKER & DANIELS 111 E. WAYNE STREET SUITE 800 FORT WAYNE, IN 46802			PATEL, VISHAL A	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/719,101

Applicant(s)

SKINNER, JAMES W.

Examiner

Vishal Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-15 and 17-22 is/are pending in the application.
- 4a) Of the above claim(s) 10, 16, 23 and 28-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-15 and 17-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/19/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

Page 3, line 2, "form without", this language does not make sense or is not clear to what applicant is trying to say.

Page 3, line 18, "and" should be changed to --an--.

Page 12, line 31, "82" should be changed to --84--.

Page 13, line 9, "82" should be changed to --84--.

Appropriate correction is required.

Election/Restrictions

2. Applicant's election with traverse of claims 1-5, 7-9, 11-15 and 17-21 in the reply filed on 8/26/04 is acknowledged. The traversal is on the ground(s) that there are only two species of gaskets. This is not found persuasive because different figures applicant has molding members, applicant has the gasket in an unfolded form and a pipe inserted into which needs different structure of the gasket. Furthermore examiner has kept claims 6 and 22 with the specie I, because a removed wall instead a slited wall and removed wall are similar and obvious changes of a back wall where a pipe is inserted into. As of now claims that are withdrawn are 10, 16 and 23-34, where the claims read on another specie of gasket and a method of providing a seal.

The requirement is still deemed proper and is therefore made FINAL.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 8/19/04 was considered by the examiner.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-8, 11-14 and 17-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Meyers (US. 5,711,536).

Regarding claim 1: Meyers discloses A gasket, comprising an annular body (body 22) having a first end (end near 38), an opposite second end (end near hinge 32), an exterior surface (exterior surface of 22), and an interior surface (interior surface of 22), a wall portion (30) extending across and closing the first end of the body, an annular sealing projection (24 projecting inward) connected to the second end of the body (24 is connected to the second end). The sealing projection movable between a first position (position in figure 2) in which the sealing projection extends outwardly from the body and a second position (position of 24 in figure 2 shown by the dotted line) in which the sealing projection is disposed within the body and is compressible against the body (the member 24 does compress with the body at the second end at the hinge and near the hinge 32, figure 7).

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Regarding claim 2: The sealing projection is stable in at least one of the first and the second positions, whereby the sealing projection remains in its position in the absence of external forces applied thereto (the sealing projection remains in its first and second positions without external forces, shown in figure 2).

Regarding claim 3: The gasket having an anchoring projection (26) extending radially from the exterior surface of the body.

Regarding claim 4: The sealing projection extends substantially longitudinally from the body in the first position (where 24 is extending in the longitudinally direction).

Regarding claim 5: A pipe may be inserted through the wall portion upon making one or more slits in the wall portion (slits 38 and 42, pipe inserted into the gasket as showed in figure 7).

Regarding claim 6: A pipe may be inserted through the body upon removing the wall portion from the body (the pipe is inserted through the wall after the wall is removed).

Regarding claim 7: The gasket is made of an elastomeric material, with the body, the wall portion, and the sealing projection integrally formed with one another.

Regarding claim 8: The gasket further comprising an annular hinge portion (hinge portion 32) connecting the body and the sealing projection, the sealing projection foldable about the hinge portion between the first and second positions.

Regarding claim 11: Meyers discloses a gasket for providing a seal between a pipe (pipe DP) and a circular opening in a structure (opening in structure 62). The gasket comprising an annular body having a first end (end near 38), an opposite second end (end near hinge 32), an exterior surface, and an interior surface (exterior and interior surface of

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22), means (wall 30) extending across the first end of the body for alternatively closing the first end of the body or providing an opening through the first end of the body (wall 30). The gasket having an annular sealing projection (24) connected to the second end of the body. The sealing projection movable between a first position in which the sealing projection extends outwardly of the body and a second position in which the sealing projection is disposed within the body and adjacent the interior surface of the body (first position as showed in figure 2 and second position showed by dotted lines in figure 2). The sealing projection in the second position is compressible against the annular body upon insertion of a pipe through the opening (the member 24 does compress with the body at the second end at the hinge and near the hinge 32, figure 7).

Regarding claim 12. The sealing projection is stable in at least one of the first and said second positions, whereby the sealing projection remains in its position in the absence of external forces applied thereto (the sealing projection remains in its first and second positions without external forces, shown in figure 2).

Regarding claim 13: The gasket an anchoring projection (26) extending radially from the exterior surface of the body.

Regarding claim 14: The gasket is made of an elastomeric material with the body and the sealing projection integrally formed with one another.

Regarding claim 17. Meyers discloses a combination having a structure having a wall with a circular opening (circular opening in wall 50) therein, a gasket (20) installed within the opening (figure 7). The gasket comprising an annular body having a first end, an opposite second end, an exterior surface, and an interior surface, a wall portion (30) closing the first end of the annular body, the wall portion selectively penetrable to

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provide a pipe opening there through, an annular sealing projection (24) connected to the second end of the body. The sealing projection movable between a first position in which the sealing projection extends outwardly from the body and a second position in which the sealing projection is disposed within the body (first position as showed in figure 2 and second position showed by dotted lines in figure 2). The sealing projection is compressible against the body in the second position upon insertion of a pipe through the pipe opening (the member 24 does compress with the body at the second end at the hinge and near the hinge 32, figure 7).

Regarding claim 18: The sealing projection is stable in at least one of the first and said second positions, whereby the sealing projection remains in its position in the absence of external forces applied thereto (the sealing projection remains in its first and second positions without external forces, shown in figure 2).

Regarding claim 19: The gasket further comprises an anchoring projection (26) extending radially from the exterior surface of the body and embedded within the wall (26 is embedded in the wall 62).

Regarding claim 20: The gasket is made of an elastomeric material with the body, the sealing projection, and the anchoring projection integrally formed with one another.

Regarding claim 21: The pipe opening is formed by making one or more slits (42 and 38) in the wall portion.

Regarding claim 22: The pipe opening is formed by removing the wall portion from the body (the wall portion is removed while the pipe is being inserted).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-9, 11-15 and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skinner et al (US. 4,809,994) in view of Meyers (US. 5,711,536).

Skinner discloses a gasket providing a seal between a pipe and a structure having circular opening (pipe 12 and structure 38). The gasket being mounted in the circular opening of the wall. The gasket comprising an annular body (annular body of 13) having a first end (end 36), an opposite second end (end having 22), an exterior surface (exterior surface of 13), and an interior surface (interior surface of 13). A pipe may be inserted through the body. An annular sealing projection (projection 22) connected to the second end of the body. The sealing projection movable between a first position (first position as seen in figures 4-5) in which the sealing projection extends outwardly from the body (sealing projection extends outwardly from the body) and a second position (position as seen in figure 2a in dash lines or figure 6) in which the sealing projection is disposed within the body and is compressible against the body (the projection is within the body).

The sealing projection is stable in at least one of the first and the second positions (the sealing projection is stable in both positions). The sealing projection remains in its position in the absence of external forces applied thereto (the projections remains in its position without external forces, see figures 6 for second position and figure 5 for first position).

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The gasket further having an anchoring projection (projection 21) extending radially from the exterior surface of the body and embedded within the wall.

The sealing projection extends substantially longitudinally from the body in the first position (the projection extends substantially longitudinally). The gasket is made of an elastomeric material (column 3, lines 16-17). The sealing projection, the body and the anchoring portion are integrally formed with one another.

The gasket further comprising an annular hinge portion (hinge portion 23) connecting the body and the sealing projection. The sealing projection foldable about the hinge portion between the first and second positions (seen in figure 2A).

The sealing projection includes an enlarged end portion (enlarged end portion of 22) distal from the body. The sealing projection is stable in at least one of the first and second positions (sealing projection is stable in at least one of the first and second position as seen in figures). The sealing projection increases in thickness from the body to an end portion (end portion of 22) of the sealing projection (the thickness of 22 is increasing from 23 toward the end portion).

Skinner discloses the invention substantially as claimed above but fails to disclose a wall portion closing the first end of the annular body. The wall portion selectively penetrable to provide a pipe opening therethrough. The pipe opening is formed by making one or more slits in the wall portion. The pipe opening is formed by removing the wall portion from the body. Meyers teaches a gasket (gasket formed in figures 2 and 6) having a first portion (first portion near 24) having a foldable member (24) capable of folding to contact a pipe (pipe DP when placed through the gasket). The gasket having a wall (30), the wall portion having a closed end face (wall having score lines 38 and 40) and the wall

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being cut to form cut lines (cut lines 38 and 42). The foldable member, the wall, an anchoring portion (28) and a body of the gasket are integrally formed (see figure 2 or 6).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to configure the gasket of Skinner to have a wall, cuts or slits and have cutting steps on the wall as described by Meyers, to provide a tear away or sealing membrane that seals across the back end of the seal's cylindrical wall so that concrete cannot enter behind the wiper blade which could otherwise render the wiper blade unusable (see column 2, lines 40-45 of Meyers) and (see column 6, lines 25-29 of Meyers) and to provide a self cutting line to form a secondary wiper blade which provide a watertight seal around the leveling device or pipe (column 4, lines 5-6 of Meyers).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Skinner et al (US. 4,916,799), Richard, , Gavin, Meyers et al (US. 4,951,914 and Miller et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishal Patel whose telephone number is (703) 308-8495. The examiner can normally be reached on Monday through Friday from 7:30 PM to 4:00 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann, can be reached on (703) 306-4115.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168. Technology Center 3600 Customer Service is available at 703-308-1113. General Customer Service numbers are at 800-786-9199 or 703-308-9000. Fax Customer Service is available at 703-872-9325.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

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or faxed to: 703-872-9326, for formal communications for entry before Final action:
or,

703-872-9327, for formal communications for entry after Final action.

Hand-delivered responses should be brought to Crystal Park Five, 2451 Crystal Drive, Arlington, Virginia, Seventh Floor (Receptionist suite adjacent to the elevator lobby).

VP

September 24, 2004

A handwritten signature in black ink, appearing to read "Vishal Patel", with a stylized flourish at the end.

Vishal Patel
Patent Examiner
Tech. Center 3600